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RECEIVED  
JUL 25 1994  
HUB LAW OFFICES

10 Attorneys for Plaintiff and  
Cross-Defendant CHURCH OF SCIENTOLOGY  
11 INTERNATIONAL

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF MARIN  
14

15 CHURCH OF SCIENTOLOGY ) CASE NO. 157 680  
INTERNATIONAL, a California not- )  
16 for-profit religious corporation; ) CHURCH OF SCIENTOLOGY  
17 Plaintiffs, ) INTERNATIONAL'S MEMORANDUM  
OF POINTS AND AUTHORITIES  
18 vs. ) IN SUPPORT OF EX PARTE  
APPLICATION TO HAVE HEARING  
19 GERALD ARMSTRONG; MICHAEL WALTON; ) ON SUMMARY JUDGMENT MOTION  
et al., ) SET BEFORE NEXT AVAILABLE  
20 Defendants. ) DATE OR, IN THE  
ALTERNATIVE, TO HAVE  
21 ) HEARING ON SUMMARY JUDGMENT  
MOTION WITHIN 30 DAYS OF  
22 GERALD ARMSTRONG, ) TRIAL DATE  
23 )  
Cross-Complainant, )  
24 vs. ) DATE: July 25, 1994  
TIME: 9:30 a.m.  
DEPT: 1  
25 CHURCH OF SCIENTOLOGY )  
INTERNATIONAL, a California ) DISCOVERY CUT-OFF: Aug. 30,  
26 Corporation; DAVID MISCAVIGE; ) 1994  
DOES 1 to 100; ) MOTION CUT-OFF: Sept. 13,  
27 Cross-Defendant. ) 1994  
TRIAL DATE: Sept. 29, 1994  
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1           This is an action for fraudulent conveyance brought by  
2 plaintiff Church of Scientology International ("the Church")  
3 against defendants Gerald Armstrong, the Gerald Armstrong  
4 Corporation, and Michael Walton. Defendant Armstrong has cross-  
5 claimed against the Church, alleging abuse of process. The case  
6 is set for trial in this court on September 29, 1994. With this  
7 ex parte application, the Church seeks leave to set its motion  
8 for summary judgment of the cross-claim so that it may be heard  
9 prior to trial.

10           The Church has prepared a motion for summary judgment  
11 concerning Armstrong's cross-complaint which is ready to be filed  
12 and served. However, the Court's calendar clerk has informed  
13 plaintiff's counsel that the next hearing date available for a  
14 summary judgment motion is September 9, 1994, only 20 days before  
15 the trial date. [Declaration of Laurie J. Bartilson] Code of  
16 Civil Procedure Section 437c(a) provides that summary judgment  
17 motions must be heard "no later than 30 days before the date of  
18 trial, unless the court for good cause orders otherwise."

19           The Second Amended Cross-complaint at issue was filed by  
20 Armstrong on April 15, 1994. The Church demurred, and the  
21 demurrer was overruled by this Court on June 17, 1994. However,  
22 the Court also ordered much of the Second Amended Cross-complaint  
23 stricken, finding that only two allegations supported Armstrong's  
24 claim for abuse of process. Armstrong sought and obtained leave  
25 to file a Third Amended Cross-complaint, but has never done so.  
26  
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1 Meanwhile, the Church has, in a timely fashion,<sup>1</sup> prepared for  
2 the Court the undisputed evidence necessary to warrant judgment  
3 in its favor on the two remaining allegations. Prompt  
4 resolution of the summary judgment motion could significantly  
5 reduce the length of trial in this action.

6 Accordingly, the Church requests that this Court grant it  
7 leave to either (1) set the summary judgment motion for hearing  
8 on a date more than thirty days in advance of trial (e.g., August  
9 26, 1994) or (2) set the summary judgment motion for hearing on  
10 the next available hearing date, September 9, 1994, twenty days  
11 in advance of trial.

12 The Church's counsel, Laurie Bartilson, called Armstrong's  
13 counsel, Ford Greene, on Friday, July 22, 1994 at 1:45 p.m. The  
14 telephone was answered by Gerald Armstrong, who stated that Mr.  
15 Greene would not be in the office until after 5:00 p.m. Ms.  
16 Bartilson accordingly gave Armstrong notice that she intended to  
17 bring this ex parte application at 9:30 a.m. on Monday, July 25.  
18 Armstrong stated that he would deliver the message to Mr. Greene.  
19 [Bartilson Dec., ¶ 7]

20 Dated: July 25, 1994

Respectfully submitted,  
WILSON, RYAN &  
CAMPILONGO

23 By: \_\_\_\_\_  
24 Linda M. Fong

25 <sup>1</sup> Code of Civil Procedure Section 437c(a) also provides that  
26 summary judgment motions must be filed and served with 28 days  
27 notice. Thirty days before trial in this action is August 30,  
28 1994. The last day to file and serve a summary judgment motion  
would thus be August 2, 1994. The Church has thus prepared its  
motion well in advance of that date, and only six weeks after its  
demurrer was overruled.

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Laurie J. Bartilson  
BOWLES & MOXON

Attorneys for Plaintiff  
CHURCH OF SCIENTOLOGY  
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF LOS ANGELES        )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 235 Montgomery Street, Suite 450, San Francisco, CA 94104.

On \_\_\_\_\_ I served the foregoing document described as CHURCH OF SCIENTOLOGY INTERNATIONAL'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION TO HAVE HEARING ON SUMMARY JUDGMENT MOTION SET BEFORE NEXT AVAILABLE DATE OR, IN THE ALTERNATIVE, TO HAVE HEARING ON SUMMARY JUDGMENT MOTION WITHIN 30 DAYS OF TRIAL DATE on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

FORD GREENE  
HUB Law Offices  
711 Sir Francis Drake Blvd.  
San Anselmo, CA 94960-1949

MICHAEL WALTON  
P.O. Box 751  
San Anselmo, CA 94979

[ ] BY MAIL

[ ] \*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[ ] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of

business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on \_\_\_\_\_, at Los Angeles, California.

\*\*(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on \_\_\_\_\_, at Los Angeles, California.

(State) I declare under penalty of the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Signature

\* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

\*\* (For personal service signature must be that of messenger)